THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.19083 OF 2005

DATED:30.8.2005

Between:

Mannam Bharathi

W/o.Visveswara Rao,

R/o.Madhurapuri Colony

Dilsukhnagar, Hyderabad

and others …Petitioner

And

The District Collector,

Nellore and others

…Respondents

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WRIT PETITION NO.19083 OF 2005

ORDER:

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The petitioners claim an extent of Acs.46.42 of Gottigundala Village, Kondapuram Mandal, Nellore District. They also claimed that the land is patta land and names of petitioners are entered as occupiers in the relevant revenue records. It appears, the Mandal Revenue Officer issued a show cause notice dt.10.4.2005 calling upon the petitioners to explain as to how they occupied the land admeasuring Acs.102.02 in Gottigundala Village, further alleging that the petitioners encroached upon the lands. Assailing the same, petitioners filed a writ petition being W.P.No.12073 of 2005. This Court by order dt.9.6.2005 disposed of the Writ Petition directing the Mandal Revenue Officer, Kondapuram Mandal to consider the explanation submitted by the petitioners and pass appropriate orders after giving opportunity to the petitioners. In obedience thereto, the Mandal Revenue Officer; third respondent herein, considered

the explanation and after verifying various records came to the conclusion that various land in various survey numbers which is in possession of the petitioners is assigned lands. Accordingly, by impugned proceedings dt.4.8.2005 the Mandal Revenue Officer informed the petitioners that necessary action would be taken under the provisions of A.P.Land Encroachment Act, 1905. This is assailed in the Writ Petition.

Learned counsel for the petitioners, Sri V.Rajagopal Reddy, contends that the Mandal Revenue Officer collected data behind the back of the petitioners without furnishing copies to the petitioners and therefore enquiry is vitiated. Secondly, he would urge that the Mandal Revenue Officer did not give sufficient opportunity to the petitioners as directed by this Court in W.P.No.12073 of 2003.

In the considered opinion of this Court, the Writ Petition at this stage is misconceived. A reading of the impugned proceedings would show that except verifying the records in the office of Mandal Revenue Officer, no material is collected. The details of lands, which are Government assigned lands, are only taken from the revenue records like adangals and pattadar pass books. Be that as it is, when the show cause notice was issued, the second petitioner submitted explanation *inter alia* stating that the land in S.Nos.399 and 406 is covered by registered sale deed by reason of the decree for specific performance granted by Court of Junior Civil Judge, Kavali, that the fair chitta granted by Settlement Officer would also show the vendor of the sale deed as owner. It was therefore incumbent on the Mandal Revenue Officer to verify from the records whether these facts are correct. After doing so, the Mandal Revenue Officer came to a conclusion that the Chennupalli Chennaiah is not at all pattadar and that his name was tampered in the revenue record and fair chitta referred in the record was not filed. While dealing with the explanation submitted by the second petitioner, the Mandal Revenue Officer gives reasons and also refers to revenue records in support of his reasons. The same does not amount to gathering data behind the back of the petitioners.

Secondly, in the legal parlance ‘after necessary enquiry’ does not necessarily mean elaborate trial by Mandal Revenue Officer. Even issuing show cause notice and obtaining explanation would satisfy the principles of fairness. Therefore, the submission is misconceived. As on today, no decision can be said to be adversely affected the petitioners. The impugned proceeding itself indicates that necessary action will be initiated for taking possession of the land under A.P.Land Encroachment Act. At that stage also, it shall be open to petitioners to raise all the grounds, including the ground that the lands in their occupation and possession are not government lands and/or that petitioners’ occupation is not objectionable. It is too premature to go into the details of various contentions. These few observations are made only while dealing with the averments made by the petitioners. The Writ Petition is devoid of merits. It shall be open to petitioners to raise all the grounds as and when action is initiated under A.P.Land Encroachment Act.

The Writ Petition, with the above observations, is dismissed. No costs.

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(V.V.S.RAO, J)

30.8.2005

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